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230927

FILED
SEP - 7 2011
SURFACE
TRANSPORTATION BOARD

September 7, 2011

Karl Morell
Of Counsel
kmorell@balljanik.com

BY HAND DELIVERY

Cynthia Brown
Chief, Section of Administration
Surface Transportation Board
Office of Proceedings
395 E Street, SW
Washington, DC 20423

SEP 7 2011
FEE RECEIVED

Re: STB Docket No. AB-6 (Sub-No. 475), BNSF Railway Company --
Abandonment Exemption -- In Boulder County, CO

Dear Ms. Brown:

Attached for filing are the original and ten copies of a Notice of Exemption under 49 C.F.R. § 1152.50. Also attached is a check covering the \$3,600 filing fee.

Please time and date stamp the extra copy of the Notice and return it with our messenger.

If you have any questions, please call me.

Sincerely,

Karl Morell
Of Counsel

Enclosures

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BEFORE THE
SURFACE TRANSPORTATION BOARD

230927

BNSF RAILWAY COMPANY
ABANDONMENT EXEMPTION
IN BOULDER COUNTY,
COLORADO

)
)
)
)

SEP 7 2011

DOCKET NO. AB-6
(SUB-NO. 475X)

NOTICE OF EXEMPTION

BNSF RAILWAY COMPANY
2650 Lou Menk Drive
P.O. Box 96157
Fort Worth, TX 76161-0057

Public Record

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SURFACE
TRANSPORTATION BOARD

Courtney Biery Estes
General Attorney
BNSF Railway Company
2500 Lou Menk Drive, AOB-3
Fort Worth, Texas 76131

Karl Morell
Of Counsel
BALL JANIK LLP
Suite 225
655 Fifteenth Street
Washington, D.C. 20005
(202) 638-3307

Dated: September 7, 2011

FREE RECEIVED
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SURFACE
TRANSPORTATION BOARD

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

BNSF RAILWAY COMPANY)	
ABANDONMENT EXEMPTION)	DOCKET NO. AB-6
IN BOULDER COUNTY,)	(SUB-NO. 475X)
COLORADO)	

NOTICE OF EXEMPTION

BNSF Railway Company ("**BNSF**") files this Verified Notice of Exemption pursuant to the class exemption at 49 C.F.R. § 1152.50 to abandon 1.37 miles of rail line located between milepost 20.80 and milepost 22.17 in Boulder County, Colorado (the "**Line**").

1. *Proposed consummation date.*

The proposed consummation date is November 6, 2011.

2. *Certification required by 49 C.F.R. § 1152.50(b).*

The required certification is attached hereto as **Exhibit A**.

3. *Information required by 49 C.F.R. § 1152.22(a)(1) through (4), (7) and (8) and (e)(4).*

(a) *General.*

(1) *Exact name of applicant.*

BNSF Railway Company

(2) *Whether applicant is a common carrier by railroad subject to 49 U.S.C. Subtitle IV, Chapter 105.*

BNSF is a common carrier by railroad subject to 49 U.S.C. Subtitle IV, Chapter 105.

(3) ***Relief sought.***

BNSF seeks to use the class exemption at 49 C.F.R. § 1152.50 to abandon 1.37 miles of rail line located between milepost 20.80 and milepost 22.17 at Lafayette, in Boulder County, Colorado. There has been no local freight rail traffic on the Line in over six years. The Line is stub-ended and, therefore, not capable of handling overhead traffic. There are no stations on the Line.

(4) ***Map.***

A map of the Line is attached as **Exhibit B**.

(7) ***Name, title and address of representative of applicant to whom correspondence should be sent.***

Karl Morell
Ball Janik LLP
655 Fifteenth Street
Suite 225
Washington, D.C. 20005

(8) ***List of all United States Postal Service ZIP codes that the line proposed for abandonment traverses.***

The Line traverses U.S. ZIP code 80026.

(c) ***Rural and community impact.***

(4) ***Statement of whether the properties proposed to be abandoned are appropriate for use for other public purposes, including roads and highways, other forms of mass transportation, conservation, energy production or transmission, or recreation. If the applicant is aware of any restriction on the title to the property, including any reversionary interest, which would affect the transfer of title or the use of property for other than rail purposes, this shall be disclosed.***

The Line traverses predominantly suburban/urban areas with more than adequate road and highway networks, therefore, there is little or no likelihood that the rail corridor is needed for transit purposes. The right-of-way, however, is suitable for recreational trails. Some of the property underlying the right-of-way is reversionary, which would affect the transfer of the property for other than rail or rail-banking purposes.

4. *The level of labor protection.*

The interests of railroad employees who may be adversely affected by the proposed abandonment will be adequately protected by the labor protective conditions in *Oregon Short Line R. Co. – Abandonment – Goshen*, 360 I.C.C. 91 (1979).

5. *Certification.*

Certificates of compliance with the notice requirements of 49 C.F.R. §§ 1152.50(d)(1), 1105.11 and 1105.12 are attached as **Exhibit C**.

6. *Environmental Report.*

The Environmental Report containing information required by 49 C.F. R. § 1105.7(e) is attached hereto as **Exhibit D**. Based on information in our possession, the Line does not contain federally granted rights-of-way. Any documentation in BNSF's possession will be made available promptly to those requesting it.

7. *Historic Report.*

The Historic Report containing information required by 49 C.F.R. § 1105.8 is attached hereto as **Exhibit D**.

Respectfully submitted,

A handwritten signature in black ink that reads "Karl Morell". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

Karl Morell
Of Counsel
BALL JANIK LLP
Suite 225
655 Fifteenth Street
Washington, D.C. 20005
(202) 638-3307

Courtney Biery Estes
General Attorney
BNSF Railway Company
2500 Lou Menk Drive, AOB-3
Fort Worth, Texas 76131

Dated: September 7, 2011

EXHIBIT A


**VERIFICATION AND CERTIFICATION THAT RAIL LINE MEETS
CRITERIA OF 49 C.F.R. SECTION 1152.50(b)**

STATE OF TEXAS)
) **ss.**
TARRANT COUNTY)

I, Susan Odom, being duly sworn depose and state that I am Manager Network Studies for BNSF Railway Company ("**BNSF**"), that I am authorized to make this verification and that I have read the foregoing Notice of Exemption and know the facts asserted therein are true and accurate as stated to the best of my knowledge, information and belief.

I hereby certify that no local traffic has been handled to or from any customer over the rail line located between milepost 20.80 and milepost 22.17 at Lafayette, in Boulder County, Colorado ("the **Line**") for at least six (6) years prior to the date hereof. The Line is stub-ended and, therefore, not capable of handling overhead traffic. Further, no formal complaint filed by a user of rail service on the Line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board or any U.S. District Court or has been decided in favor of a complainant within the six-year period.

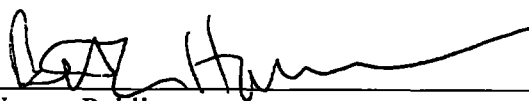
The foregoing certification is made on behalf of BNSF by the undersigned after due and careful investigation of the matters herein certified and based on the best of the knowledge, information and belief of the undersigned.



Susan Odom
Manager Network Studies

SUBSCRIBED AND SWORN TO before me this 29th day of August, 2011.

My Commission Expires: _____



Notary Public

EXHIBIT B

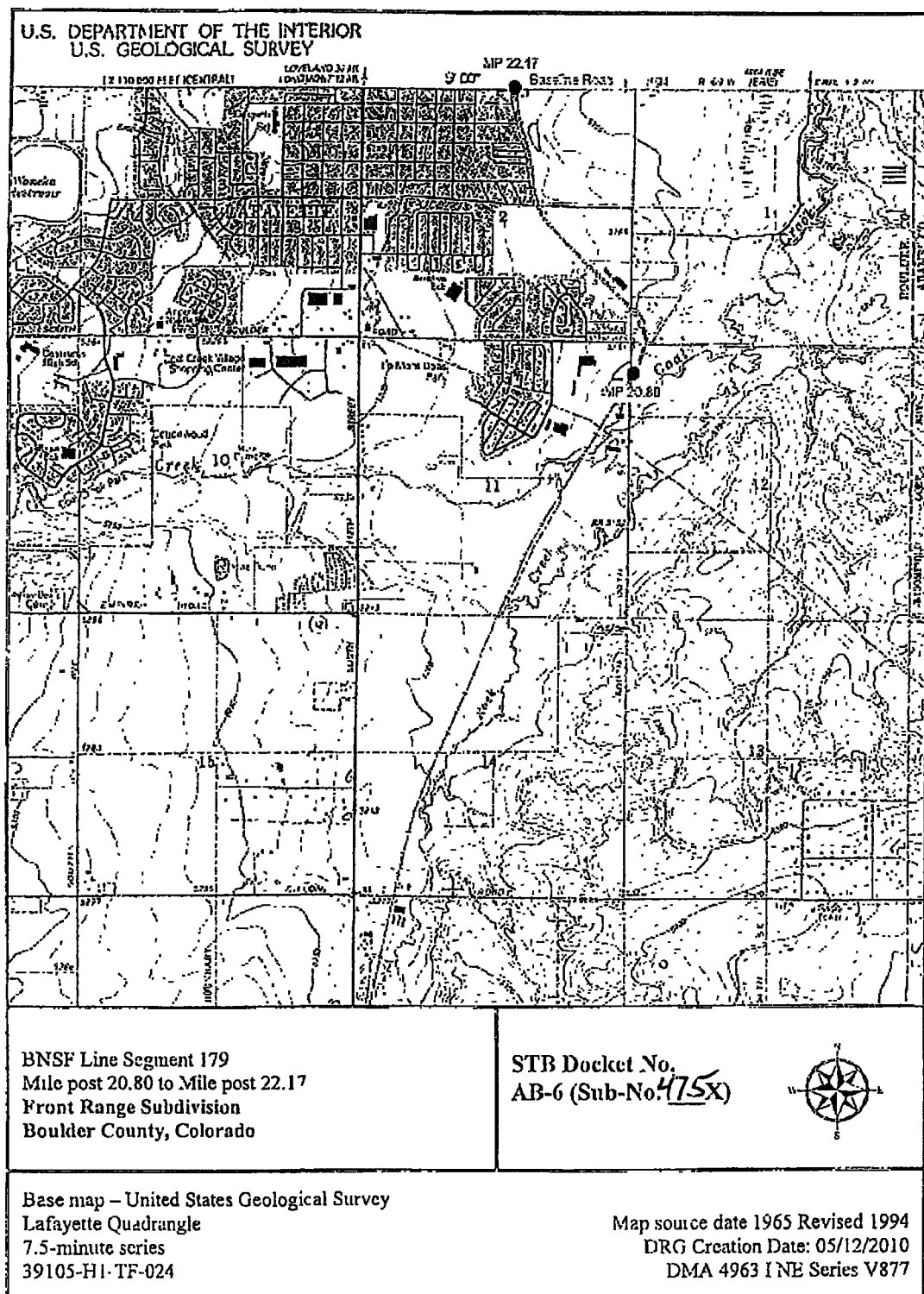


EXHIBIT C

CERTIFICATE OF SERVICE

Pursuant to 49 C.F.R. § 1152.50(d)(1), the undersigned hereby certifies that notice of the proposed abandonment in STB Docket No. AB-6 (Sub-No. 475X) was mailed via first class mail on August 24, 2011, to the following parties:

State Public Service Commission

Colorado Public Utilities Commission
1560 Broadway, Suite 250
Denver, CO 80202

Military Traffic Management Command

MTMCTEA
ATTN: SDTE-SE
Railroads for National Defense
709 Ward Drive, Building 1990
Scott AFB, IL 62225-5357

National Park Service

U.S. Department of the Interior
National Park Service
Recreation Resources Assistance Division
1849 C Street, NW
Washington, DC 20240-0001

National Park Service
RTCA Program
601 Riverfront Drive
Omaha, NE 68102-4226

U.S. Department of Agriculture

U.S. Department of Agriculture
Chief of the Forest Service
4th Floor N.W., Yates Building
201 14th Street, SW
Washington, DC 20250

Dated: September 7, 2011



Karl Morell

CERTIFICATE OF PUBLICATION

The undersigned hereby certifies that notice of the proposed abandonment in STB Docket No. AB-6 (Sub-No. 475X) was published on August 31, 2011, in the Colorado Hometown Weekly, a newspaper published in Boulder County, Colorado as required by 49 C.F.R. § 1105.12.

Dated: September 7, 2011

A handwritten signature in black ink that reads "Karl Morell". The signature is written in a cursive style with a horizontal line underneath it.

Karl Morell

CERTIFICATION AND ENVIRONMENTAL REPORT

CERTIFICATE OF SERVICE

The undersigned hereby certifies that, in STB Docket No. AB-6 (Sub-No. 475X), the transmittal letter required by 49 C.F.R. § 1105.11, was mailed to all agencies listed in 49 C.F.R. § 1105.7(b), via first class mail on August 18, 2011.

Pursuant to the requirements of 49 C.F.R. § 1105.7, the undersigned hereby certifies that a copy of the Environmental Report in STB Docket No. AB-6 (Sub-No. 475X) was mailed via first class mail on August 18, 2010, to the following parties:

Colorado Public Utilities Commission
1580 Logan Street
Office Level 2
Denver, CO 80203

Colorado Department of Public Health and the Environment
4300 Cherry Creek Drive South
Denver, Colorado 80246

Mr. Peter L. Fogg
Manager, Long Range Policy Team
Boulder County Land Use Department
PO Box 471
Boulder, CO 80306

Ms. Karen J. Westover, AICP
Planning Manager, City of Lafayette
1290 South Public Road
Lafayette, CO 80026

Ms. Susan C. Linner
U.S. Fish and Wildlife Service
Mountain-Prairie Region
134 Union Blvd.
Lakewood, Colorado 80228

Mr. John Wessels, Regional Director
National Park Service
Intermountain Region
12795 Alameda Parkway
Denver, CO 80225

U.S. Environmental Protection Agency
Region 8
1595 Wynkoop Street
Denver, CO 80202-1129

Mr. Timothy T. Carey
Chief, Denver Regulatory Office
U.S. Army Corps of Engineers, Omaha District
9307 South Wadsworth Boulevard
Littleton, CO 80128-6901

The National Geodetic Survey
Department of Commerce/NOAA
SSMC3
Station 9356
1315 East West Highway
Silver Spring, MD 20910

Colorado Department of Natural Resources
Division of Water Resources
1313 Sherman Street, Room 818
Denver, CO 80203

BLM Colorado State Office
2850 Youngfield Street
Lakewood, CO 80215

Colorado NRCS State Office
Denver Federal Center
Building 56, Room 2604
PO Box 25426
Denver, CO 80225-0426

Date: September 7, 2011


Karl Morell

**HISTORIC REPORT
CERTIFICATE OF SERVICE**

Pursuant to the requirements of 49 C.F.R. § 1105.8(c), the undersigned hereby certifies that a copy of the Historic Report in STB Docket No. AB-6 (Sub-No. 475X) was mailed via first class mail on August 18, 2011, to the following party:

Mr. Edward C. Nichols
State Historic Preservation Officer
Colorado Historical Society
Office of Archaeology & Historic Preservation
Civic Center Plaza
1560 Broadway
Suite 400
Denver, CO 80202

Date: September 7, 2011


Karl Morell

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

BNSF RAILWAY COMPANY)	
ABANDONMENT EXEMPTION)	DOCKET NO. AB-6
IN BOULDER COUNTY,)	(SUB-NO. 475X)
COLORADO		

ENVIRONMENTAL AND HISTORIC REPORTS

BNSF RAILWAY COMPANY
2650 Lou Menk Drive
P.O. Box 96157
Fort Worth, TX 76161-0057

Courtney B. Estes
General Attorney
BNSF Railway Company
2500 Lou Menk Drive, AOB-3
Fort Worth, Texas 76131-2828

Karl Morell
Of Counsel
BALL JANIK LLP
Suite 225
655 Fifteenth Street, N.W.
Washington, D.C. 20005
(202) 638-3307

Service Date: August 18, 2011

ENVIRONMENTAL REPORT

(49 C.F.R. § 1105.7)

(1) Proposed Action and Alternatives. Describe the proposed action, including commodities transported, the planned disposition (if any) of any rail line and other structures that may be involved, and any possible changes in current operations or maintenance practices. Also describe any reasonable alternatives to the proposed action. Include a readable, detailed map and drawings clearly delineating the project.

BNSF Railway Company ("BNSF") proposes to abandon 1.37 miles of rail line located between Milepost 20.80 and Milepost 22.17, in Lafayette, Boulder County, Colorado (the "Line"). A map of the project area is attached as **Exhibit A**.

The City of Lafayette wishes to railbank the line for continuation of an existing trail.

BNSF's salvage process as it relates to this project is as follows:

The proposed abandonment will include the removal of the rails and ties, but the railroad right-of-way, ballast, and culverts will remain in place.

The salvage process begins with the unbolting of the track materials or rails. With the use of specialized machinery placed on the railroad right-of-way, the rails and related steel (angle bars, tie plates, spikes, switches and any other metal parts) are removed. Next the wooden ties are raised from the ballast with a tool designed for minimum disruption of ground material. The ties are separated into three groups as follows: (1) good quality ties that will be re-used in rail service, (2) landscape-quality ties that will be sold to lumber dealers for landscaping and (3) scrap ties. Scrap ties are loaded into railcars and shipped by BNSF to an EPA-approved disposal site.

The culverts, ballast and right-of-way will remain intact so as not to alter the prevailing

waterflows along the line. In addition, BNSF salvage contractors are required to limit their activities to the width of the right-of-way and not to place fills or other material in water bodies, including inland waterways. When the salvage process is complete, waterflows in the area should not be disrupted.

Finally, road crossings are removed and remediated, then repaved with gravel, asphalt or concrete, as required by governing authority. Any signals are also dismantled and removed.

BNSF salvage work for abandonments is always performed by experienced rail material salvagers and is generally bid on the open market. Each salvage contract includes detailed information on any environmental or historic conditions recommended by the Office of Environmental Analysis ("OEA") and imposed by the Surface Transportation Board ("STB") in the final decision. Completed work is independently inspected by a BNSF roadmaster (or equal representative) to ensure compliance with BNSF standards of quality and all contractual obligations, including STB-imposed conditions, if applicable.

The Line has had no local traffic for at least six years. The Line is stub-ended and, therefore, not capable of handling overhead traffic. Because of the lack of traffic on the Line, only very limited maintenance has been performed on the Line for some time. Therefore, the proposed abandonment will have no impact on rail freight operations and maintenance practices on the Line.

The only alternative to abandonment would be to not abandon the Line and forego the opportunity costs from salvaging the Line.

(2) Transportation System *Describe the effect of the proposed action on regional or local transportation systems and patterns. Estimate the amount of traffic (passenger or freight) that will be diverted to other transportation systems or modes as a result of the proposed action.*

There will be no passenger or freight traffic diverted to other transportation systems as a result of the proposed abandonment. There has been no local or overhead traffic on this line for at least six years.

(3) Land Use

(i) *Based on consultation with local and/or regional planning agencies and/or review of the official planning documents prepared by such agencies, state whether the proposed action is consistent with existing land use plans. Describe any inconsistencies.*

The proposed action is consistent with existing land use plans. BNSF contacted the City of Lafayette, Planning Commission, and the Boulder County, Planning Division.

Karen J. Westover, Planning Manager, City of Lafayette, replied in an e-mail dated July 21, 2011, stating that the proposed abandonment is consistent with existing land use patterns and aligns with the City's Comprehensive Plans. A copy of the e-mail is attached as **Exhibit B**. Peter L. Fogg, Manager, Long Range Policy Team, Boulder County Land Use Department, replied in a letter dated July 29, 2011, stating that the proposal is consistent with both Lafayette's and Boulder County's comprehensive plans as well as the county's intergovernmental agreement with Lafayette regarding the boundaries of the Municipal Influence Area for planning and annexation purposes. A copy of the letter is attached as **Exhibit C**.

(ii) Based on consultation with the U.S. Soil Conservation Service, state the effect of the proposed action on any prime agriculture land.

BNSF does not believe that the proposed abandonment will have an adverse effect on prime agriculture land. BNSF sent a letter to the Colorado NRCS State Office, dated June 6, 2011, and as of the date of this report we have not received a reply. A copy of the letter is attached as **Exhibit D**.

(iii) If any action affects land or water uses within a designated coastal zone, include the coastal zone information required by § 1105.9.

Not applicable.

(iv) If the proposed action is an abandonment, state whether or not the right-of-way is suitable for alternative public use under 49 U.S.C. § 10905 and explain why.

The proposed abandonment may be suitable for alternative public use. BNSF contacted the City of Lafayette, Planning Commission, and Boulder County, Planning Division. BNSF intends to railbank the Line with the City of Lafayette.

(4) Energy

(i) Describe the effect of the proposed action on transportation of energy resources.

The proposed abandonment will have no effect on the transportation of energy resources.

(ii) Describe the effect of the proposed action on recyclable commodities.

The proposed abandonment will not adversely affect the movement or recovery of recyclable commodities.

(iii) State whether the proposed action will result in an increase or decrease in overall energy efficiency and explain why.

The proposed action will not result in an increase or decrease in overall energy efficiency as there has been no traffic on the line for at least six years.

(iv) If the proposed action will cause diversions from rail to motor carriage of more than:

(A) 1,000 rail carloads a year, or

(B) an average of 50 rail carloads per mile per year for any part of the affected line, quantify the resulting net change in the energy consumption and show the data and methodology used to arrive at the figure given.

The proposed abandonment will not result in a diversion of rail to motor carriage.

(5) Air

(i) If the proposed action will result in either:

(A) an increase in rail traffic of at least 100 percent (measured in gross ton miles annually) or an increase of at least eight trains a day on any segment of the line affected by the proposal, or

(B) an increase in rail yard activity of at least 100 percent (measured by carload activity), or

(C) an average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on any affected road segment, quantify the anticipated effect on air emissions.

The proposed action will not result in meeting or exceeding the specified thresholds for increased rail or truck traffic as outlined in (i) (A), (B) or (C) above.

(ii) If the proposed action affects a class I or nonattainment area under the Clean Air Act, and will result in either:

(A) an increase in rail traffic of at least 50 percent (measured in gross ton miles annually) or an increase of at least three trains a day on any segment of rail line,

(B) an increase in rail yard activity of at least 20 percent (measured

by carload activity), or

(C) an average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on a given road segment, then state whether any expected increased emissions are within the parameters established by State Implementation Plan. However, for a rail construction under 49 U.S.C. § 10901 (or 49 U.S.C. § 10505) or a case involving the reinstitution of service over a previously abandoned line, only the three train a day threshold in this item shall apply.

The proposed action will not result in meeting or exceeding the specified thresholds in (ii) (A), (B) or (C) above.

(iii) If the transportation of ozone depleting materials (such as nitrogen oxide and Freon) is contemplated, identify: the materials and quantity; the frequency of service; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and spills; contingency plans to deal with accidental spills; and the likelihood of an accidental release of ozone depleting materials in the event of a collision or derailment.

The proposed abandonment will not affect the transportation of ozone depleting materials.

(6) Noise *If any of the thresholds identified in item (5) (i) of this section are surpassed, state whether the proposed action will cause:*

(i) an incremental increase in noise levels of three decibels Ldn or more; or

(ii) an increase to a noise level of 65 decibels Ldn or greater. If so, identify sensitive receptors (e.g. schools, libraries, hospitals, residences, retirement communities and nursing homes) in the project area and quantify the noise increase for these receptors if the thresholds are surpassed.

Not applicable.

(7) Safety

(i) Describe any effects of the proposed action on public health and safety (including vehicle delay time at railroad crossings).

This abandonment should have no adverse effect on health or public safety.

There are two (2) private at-grade crossings and three (3) public at-grade crossings on the Line.

(ii) If hazardous materials are expected to be transported, identify: the materials and quantity; the frequency of service; whether chemicals are being transported that, if mixed, could react to form more hazardous compounds; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and hazardous spills; the contingency plans to deal with accidental spills, and the likelihood of and accidental release of hazardous materials.

The abandonment will not result in the transportation of hazardous materials.

(iii) If there are any known hazardous waste sites or sites where there have been known hazardous material spills on the right-of-way, identify the location of those sites and the types of hazardous materials involved.

There are no known hazardous waste sites or sites where there have been known hazardous material spills on the right-of-way.

(8) Biological Resources

(i) Based on consultation with the U.S. Fish and Wildlife Service, state whether the proposed action is likely to adversely affect endangered or threatened species or areas designated as a critical habitat, and if so, describe the effects.

BNSF does not believe that the proposed abandonment will have an adverse effect on endangered or threatened species or areas designated as a critical habitat. By letter dated June 6, 2011, BNSF contacted the U.S. Fish and Wildlife Service, Mountain-Prairie Region, in reference to this proposed abandonment. The agency

replied by letter dated June 17, 2011, stating “concur not likely to adversely affect.” A copy of the letter is attached as **Exhibit E**.

(ii) State whether wildlife sanctuaries or refuges, National or State parks or forests will be affected, and describe any effects.

BNSF does not believe that any wildlife sanctuaries or refuges, National or State parks or forests will be adversely affected by the proposed abandonment. By letters dated June 6, 2011, BNSF contacted the BLM Colorado State Office and the National Park Service in reference to the proposed abandonment. As of the date of this Environmental Report, the BLM Colorado State Office hasn’t replied to our inquiry. The National Park Service replied by letter dated June 16, 2011, stating “The National Park Service reviewed this project, and determined that no parks will be affected; therefore, we have no comments.” Copies of the letters are attached as **Exhibit F**.

(9) Water

(i) Based on consultation with State water quality officials, state whether the proposed action is consistent with applicable Federal, State or local water quality standards. Describe any inconsistencies.

By letter dated June 6, 2011, BNSF contacted the US EPA, Region 8, and as of the date of this report it has not responded to our inquiry. A copy of the letter is attached as **Exhibit G**. By letter dated June 6, 2011, BNSF contacted the Colorado Department of Natural Resources, Division of Water Resources, and as of the date of this report it has not responded to our inquiry. A copy of the letter is attached as **Exhibit H**.

(ii) Based on consultation with the U.S. Army Corps of Engineers, state

whether permits under Section 404 of the Clean Water Act (33 U.S.C. § 1344) are required for the proposed action and whether any designated wetlands or 100-year flood plains will be affected. Describe the effects.

BNSF is confident that no designated wetlands or 100-year flood plains will be adversely affected by the proposed abandonment. By letter dated June 6, 2011, BNSF contacted the Department of the Army, Corps of Engineers, Omaha District in reference to the proposed abandonment. Timothy T. Carey, Chief, Denver Regulatory Office, replied in a letter dated June 10, 2011, stating, "Based on the information provided, a Department of the Army (DA) Permit will not be required for this project. Although a DA Permit will not be required for the project, this does not eliminate the requirement that other applicable federal, state, and local permits be obtained as needed." A copy of the letter is attached as **Exhibit I.**

(iii) State whether permits under Section 402 of the Clean Water Act (33 U.S.C. § 1342) are required for the proposed action. (Applicants should contact the U.S. Environmental Protection Agency or the state environmental protection or equivalent agency if they are unsure whether such permits are required).

By letter dated June 6, 2011, BNSF contacted the US EPA, Region 8, and as of the date of this report it has not responded to our inquiry. A copy of the letter is attached as **Exhibit G.** By letter dated June 6, 2011, BNSF contacted the Colorado Department of Natural Resources, Division of Water Resources, and as of the date of this report it has not responded to our inquiry. A copy of the letter is attached as **Exhibit H.**

(10) Proposed Mitigation. Describe any actions that are proposed to mitigate adverse environmental impacts, indicating why the proposed mitigation is appropriate.

BNSF does not expect any adverse environmental impact from the proposed abandonment and, therefore, sees no need for any mitigating actions. BNSF will, of course, consult (as required) with any recipients of this Environmental Report regarding appropriate mitigation actions and will comply with those mitigation actions required by the Board.

HISTORIC REPORT

(49 C.F.R. § 1105.8)

(1) Proposed Action and Alternatives. Describe the proposed action, including commodities transported, the planned disposition (if any) of any rail line and other structures that may be involved, and any possible changes in current operations or maintenance practices. Also describe any reasonable alternatives to the proposed action. Include a readable, detailed map and drawings clearly delineating the project.

BNSF Railway Company ("BNSF") proposes to abandon 1.37 miles of rail line located between Milepost 20.80 and Milepost 22.17, in Lafayette, Boulder County, Colorado (the "Line"). A map of the project is attached as **Exhibit A**.

BNSF's salvage process as it relates to this project is as follows:

The proposed abandonment will include the removal of the rails and ties. The railroad right-of-way, ballast and culverts will remain in place.

The salvage process begins with the unbolting of the track materials or rails. With the use of specialized machinery placed on the railroad right-of-way, the rails and related steel (angle bars, tie plates, spikes, switches and any other metal parts) are removed. Next the wooden ties are raised from the ballast with a tool designed for minimum disruption of ground material. The ties are separated into three groups as follows: (1) good quality ties that will be re-used in rail service, (2) landscape-quality ties that will be sold to lumber dealers for landscaping and (3) scrap ties. Scrap ties are loaded into railcars and shipped by BNSF to an EPA-approved disposal site.

The culverts, ballast and right-of-way will remain intact so as not to alter the prevailing waterflows along the line. In addition, BNSF salvage contractors are required to limit

their activities to the width of the right-of-way and not to place fills or other material in water bodies, including inland waterways. When the salvage process is complete, waterflows in the area should not be disrupted.

Finally, road crossings are removed and remediated, then repaved with gravel, asphalt or concrete, as required by governing authority. Any signals are also dismantled and removed.

BNSF salvage work for abandonments is always performed by experienced rail material salvagers and is generally bid on the open market. Each salvage contract includes detailed information on any environmental or historic conditions imposed by the Office of Environmental Analysis of the Surface Transportation Board (“OEA”) in their final decision. Completed work is independently inspected by a BNSF roadmaster (or equal representative) to ensure compliance with BNSF standards of quality and all contractual obligations, including OEA-imposed conditions, if applicable.

The Line has had no local traffic for at least six years. The Line is stub-ended and, therefore, not capable of handling overhead traffic. Because of the lack of traffic on the Line, only very limited maintenance has been performed on the Line for some time. Therefore, the proposed abandonment will have no impact on rail freight operations and maintenance practices on the Line.

The only alternative to abandonment would be to not abandon the Line and forego the opportunity costs from salvaging the Line.

HISTORIC REPORT

- 1. A U.S.G.S. topographic map (or an alternate map drawn to scale and sufficiently detailed to show buildings and other structures in the vicinity of the proposed action) showing the location of the proposed action, and the locations and approximate dimensions of railroad structures that are 50 years old or older and are part of the proposed action.***

The required topographic map is attached to this Report as Exhibit A.

- 2. A written description of the right-of-way (including approximate widths, to the extent known), and the topography and urban and/or rural characteristics of the surrounding area***

The subject Line extends approximately 1.37 miles between Milepost 20.80 and Milepost 22.17, at Lafayette, in Boulder County, Colorado. The average width of the right-of-way is generally 100 feet, 50 feet on each side of the centerline of the Line. The width decreases on some segments to 50 feet, then changes back to 100 feet wide. There are no federally granted rights of way involved.

- 3. Good quality photographs (actual photographic prints, not photocopies) of railroad structures on the property that are 50 years old or older and of the immediately surrounding area.***

There are no bridges or other railroad structures on the Line.

- 4. The date(s) of construction of the structure(s), and the date(s) and extent of any major alterations, to the extent such information is known.***

There are no bridges or other railroad structures on the Line.

- 5. A brief narrative history of carrier operations in the area, and an explanation of what, if any, changes are contemplated as a result of the proposed action.***

On February 12, 1849, the Chicago, Burlington & Quincy Railroad Company ("CB&Q") was incorporated as Aurora Branch Railroad Company. On June 22, 1852, the name changed to Chicago and Aurora Railroad Company. On February 14, 1855, the name

changed to The Chicago, Burlington and Quincy Railroad Company. In 1901, the Great Northern Railway Company and Northern Pacific Railway Company jointly acquired control of CB&Q. On March 2, 1970, Great Northern Railway Company and Northern Pacific Railway Company were merged into Great Northern Pacific and Burlington Lines, Inc., pursuant to an Agreement of Merger dated as of January 26, 1961 (Northern Lines Merger Agreement). On March 2, 1970, CB&Q then merged into the Great Northern Pacific and Burlington Lines, Inc. pursuant to an Agreement of Merger dated as of January 26, 1961, (Burlington Merger Agreement). A Certificate of Amendment of Certificate of Incorporation of Great Northern Pacific and Burlington Lines, Inc. dated February 12, 1970, was filed in the office of the Secretary of State of Delaware on March 2, 1970, and the name of the company changed to Burlington Northern Inc. ("BNI"). On May 14, 1981, BNI's name changed to Burlington Northern Railroad Company ("BNRR") and it became a wholly-owned subsidiary of BNI. BNRR merged with The Atchison, Topeka and Santa Fe Railway Company in 1996 to become The Burlington Northern and Santa Fe Railway Company, which name was changed to BNSF Railway Company in 2005.

6. *A brief summary of documents in the carrier's possession, such as engineering drawings, that might be useful in documenting a structure that is found to be historic.*

Documents in BNSF's possession concerning this abandonment may include alignment maps showing the right-of-way and/or station maps. These documents are too large for practical reproduction in this report, but can be furnished upon request, if they are available.

7. *An opinion (based on readily available information in the railroad's possession) as to whether the site and/or structures meet the criteria for listing on the National Register of Historic Places (36 CFR 60.4), and whether there is a likelihood of archeological resources or any other previously unknown historic properties in the project area, and the basis for these opinions (including any consultations with the State Historic Preservation Office, local historical societies or universities).*

BNSF contacted the Colorado Historical Society (“SHPO”) in reference to the proposed abandonment. By letter dated June 29, 2011, Edward C. Nichols, State Historic Preservation Officer and President stated, “The BNSF’s Lafayette Bypass (BL.374.6) was determined to be eligible for listing on the National Register of Historic Places in 1990. We believe that the line, as it exists today, remains eligible for listing on the NRHP. However, removing the existing tracks without altering the existing bed, grade, or orientation is an undertaking that would have no adverse effect on this historic resources.” The letter is attached as **Exhibit J**.

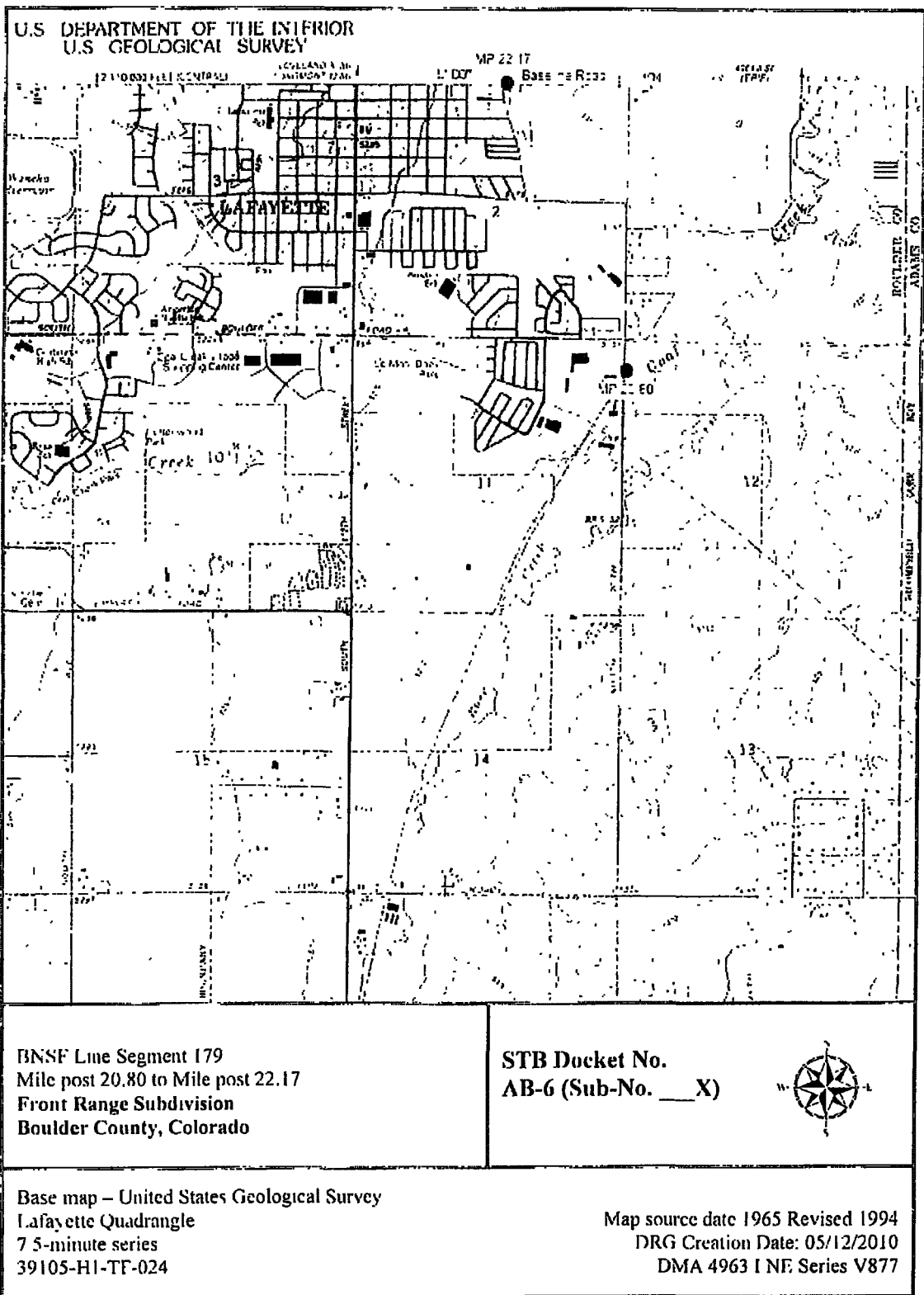
8. *A description (based on readily available information in the railroad's possession) of any known prior subsurface ground disturbance or fill, environmental conditions (naturally occurring or manmade) that might affect the archeological recovery of resources (such as swampy conditions or the presence of toxic wastes), and the surrounding terrain.*

The Line was disturbed during original construction by cuts and fill and any archaeological resources that may have been located in the proposed project area would have been affected at that time. Our records do not indicate any environmental conditions that might affect the archaeological recovery of resources.

9. *Within 30 days of receipt of the historic report, the State Historic Preservation Officer may request the following additional information regarding specific non railroad owned properties or groups of properties immediately adjacent to the railroad right-of-way: photographs of specified properties that can be readily seen from the railroad right-of-way (or other public rights-of-way adjacent to the property) and a written description of any previously discovered archeological sites, identifying the location and type of the site (i.e. prehistoric or native American).*

If any additional information is requested, BNSF will promptly supply the necessary information.

A



Sims, John A

From: Karen Westover [karenw@cityoflafayette.com]

Sent: Thursday, July 21, 2011 4:48 PM

To: Sims, John A

Cc: Monte Stevenson, Keri Davies

Subject: Abandonment of Rail line Docket No AB-6

John

In response to your letter dated June 6, 2011, the proposed abandonment is consistent with existing land use patterns and aligns with the City's Comprehensive Plans.

Please let me know if you have any questions

K. J. W.

Karen J. Westover, AICP

Planning Manager, City of Lafayette

303-665-5506, ext 3332

karenw@cityoflafayette.com

7/21/2011

c



Land Use

Courthouse Annex • 2045 13th Street • Boulder, Colorado 80302 • Tel 303 441 3930 • Fax 303 441-4856
Mailing Address: P.O. Box 471 • Boulder, Colorado 80306 • www.bouldercounty.org

July 29, 2011

John A. Sims, CP
BNSF Railway Company
2500 Lou Menk Drive AOB - 3
Fort Worth, TX 76131-2828

Dear Mr. Sims:

I apologize for the delay in our response to your letter of June 6th describing BNSF's intent to abandon 1.37 miles of rail line in Boulder County in and near the City of Lafayette. I have reviewed the map and corresponded with Lafayette, and find that the proposal is consistent with both Lafayette's and Boulder County's comprehensive plans as well as the county's intergovernmental agreement with Lafayette regarding the boundaries of the Municipal Influence Area for planning and annexation purposes.

If you have any questions or would like more details regarding this response please do not hesitate to contact me at your convenience.

Regards,

Peter L. Fogg
Manager, Long Range Policy Team
Boulder County Land Use Department
PO Box 471
Boulder, CO 80306
pfogg@bouldercounty.org
PHONE: (303) 441-3930
FAX: (303) 441-4856

cc: Jeff Moline – City of Lafayette



John A. Sims, CP
Paralegal
Law Department

BNSF Railway Company
2500 Lou Menk Drive – AOB-3
Fort Worth, Texas 76131-2628
tel 817-352-2376
fax 817-352-2397
Email john.sims@bnsf.com

June 6, 2011

Colorado NRCS State Office
Denver Federal Center
Building 56, Room 2604
PO Box 25426
Denver, CO 80225-0426

**Re: STB Docket No. AB-6 (Sub-No. 475X) BNSF Railway Company –
Abandonment Exemption – in Boulder County, Colorado**

BNSF Railway Company ("BNSF") anticipates filing in a few weeks a Notice of Exemption seeking Surface Transportation Board ("STB") authority in the above-referenced docket to abandon 1.37 miles of rail line in Boulder County, Colorado, between Milepost 20.80 and Milepost 22.17, in Lafayette.

As part of the requisite environmental report, BNSF needs to know whether or not the proposed abandonment will have any effect on prime agricultural lands. Your assessment and comments are respectfully requested.

For your reference a map of the subject railroad line is enclosed. Following is information on BNSF's salvage process as it relates to this project that should also be of use.

The referenced proposed abandonment will include the removal of the rails and ties, however, railroad right of way, ballast and culverts will remain in place.

The salvage process begins with the unbolting of the track materials or rails. With the use of specialized machinery placed on the railroad right of way, the rails and related steel (angle bars, tie plates, spikes, switches and any other metal parts) are removed. Next the wooden ties are raised from among the ballast with a tool designed for minimum disruption of ground material. The ties are separated into three groups as follows: (1) good quality ties that will be re-used in rail service, (2) landscape-quality ties that will be re-sold to lumber dealers for landscaping and (3) scrap ties. Scrap ties are loaded into railcars and shipped by BNSF to an EPA-approved disposal site.

The culverts, ballast and right of way will remain intact so as not to alter the prevailing waterflows along the line. In addition, BNSF salvage contractors are required to limit their activities to the width of the right of way and **not** to place fills or other material in water bodies, including inland waterways. When the salvage process is complete, waterflows in the area should not be disrupted.

Finally, road crossings are removed and remediated, then repaved with gravel, asphalt or concrete, as required by governing authority. Any signals are also dismantled and removed.

BNSF salvage work for abandonments is always performed by experienced rail material salvagers and is generally bid on the open market. Each salvage contract includes detailed information on any environmental or historical conditions imposed by the Office of Environmental Analysis of the Surface Transportation Board in their final decision. Completed work is independently inspected by a BNSF roadmaster (or equal representative) to ensure compliance with BNSF standards of quality and all contractual obligations, including OEA-imposed conditions, if applicable.

Please provide your assessment and comments to me at the address above, if at all possible, by June 30, 2011. You may contact me by email or phone with any questions or concerns.

Thank you in advance for your time and contribution.

Sincerely,

A handwritten signature in black ink, appearing to read 'John a. Sims', with a stylized flourish at the end.

John a. Sims, CP
Paralegal

Enclosure as stated

cc via email: Courtney Estes – BNSF – courtney.estes@bnsf.com
Karl Morell – Ball Janik LLP – kmorell@bjllp.com
Susan Odom – BNSF susan.odom@bnsf.com
Mark Norton – BNSF – mark.norton@bnsf.com



John A. Sims, CP
Paralegal
Law Department

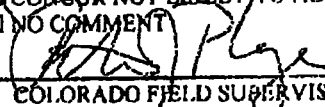
BNSF Railway Company
2630 Lcu Menk Drive - AOB-3
Fort Worth, Texas 76131-2828
tel 817-352-2378
fax 817-352-2397
Email john.sims@bnsf.com

RECEIVED

JUN 16 2011

June 6, 2011

U.S. Fish & Wildlife Service
Mountain-Prairie Region
134 Union Blvd.
Lakewood, Colorado 80228

U.S. FISH AND WILDLIFE SERVICE	
<input type="checkbox"/> CONCUR NO EFFECT	
<input checked="" type="checkbox"/> CONCUR NOT LIKELY TO ADVERSELY AFFECT	
<input type="checkbox"/> NO COMMENT	
	JUN 17 2011
COLORADO FIELD SUPERVISOR	(DATE)
Susan C. Linner	

**Re: STB Docket No. AB-6 (Sub-No. 475X) BNSF Railway Company –
Abandonment Exemption – in Boulder County, Colorado**

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As part of the requisite environmental report, BNSF needs to know: 1) whether or not there are any endangered or threatened species, wildlife sanctuaries or refuges, or areas designated as critical habitat adjacent to or near the line, and 2) if so, what effects the proposed action may have on same.

For your reference I have enclosed a map of the subject railroad line. Following is information on BNSF's salvage process as it relates to this project that should also be of use:

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The culverts and right of way will remain intact so as not to alter the prevailing waterflows along the line. In addition, BNSF salvage contractors are required to limit their activities to the width of the right of way and not to place fills or other material in water bodies, including inland waterways. When the salvage process is complete, waterflows in the area should not be disrupted.



John A. Sims, CP
Paralegal
Law Department

BNSF Railway Company
2500 Lou Menk Drive – AOB-3
Fort Worth, Texas 76131-2828
tel 817-352-2376
fax 817-352-2397
Email – john.sims@bnsf.com

June 6, 2011

BLM Colorado State Office
2850 Youngfield Street
Lakewood, Colorado 80215

**Re: STB Docket No. AB-6 (Sub-No. 475X) BNSF Railway Company –
Abandonment Exemption – in Boulder County, Colorado**

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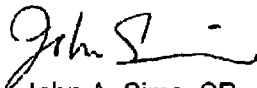
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Please provide your assessment and comments to me at the address above, if at all possible, by June 30, 2011. You may contact me by email or phone with any questions or concerns.

Thank you in advance for your time and contribution.

Sincerely,

A handwritten signature in black ink, appearing to read "John A. Sims".

John A. Sims, CP
Paralegal

Enclosure as stated

cc via email: Courtney Estes – BNSF – courtney.estes@bnsf.com
Karl Morell – Ball Janik LLP – kmorell@bjllp.com
Susan Odom – BNSF susan.odom@bnsf.com
Mark Norton – BNSF – mark.norton@bnsf.com



John A. Sims, CP
Paralegal
Law Department

BNSF Railway Company
2500 Lou Menk Drive - AOB-3
Fort Worth, Texas 76131-2828
tel 817-352-2376
fax 817-352-2397
E-mail - john.sims@bnsf.com

June 6, 2011

Mr. John Wessels, Regional Director
National Park Service
Intermountain Region
12795 Alameda Parkway
Denver, CO 80225



Boulder County, CO
The National Park Service reviewed this project,
and determined that no parks will be affected;
therefore, we have no comments.

Signature:  Date: *6/16/11*

**Re: STB Docket No. AB-6 (Sub-No. 475X) BNSF Railway Company -
Abandonment Exemption - in Boulder County, Colorado**

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As part of the requisite environmental report, BNSF needs to know: 1) whether or not there are any wildlife sanctuaries or National or State parks or forests adjacent to or near the line, and 2) if so, what effects the proposed action may have on same.

For your reference I have enclosed a map of the subject railroad line. Following is information on BNSF's salvage process as it relates to this project that should also be of use:

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Please provide your assessment and comments to me at the address above, if at all possible, by June 30, 2011. You may contact me by email or phone with any questions or concerns.

Thank you in advance for your time and contribution.

Sincerely,

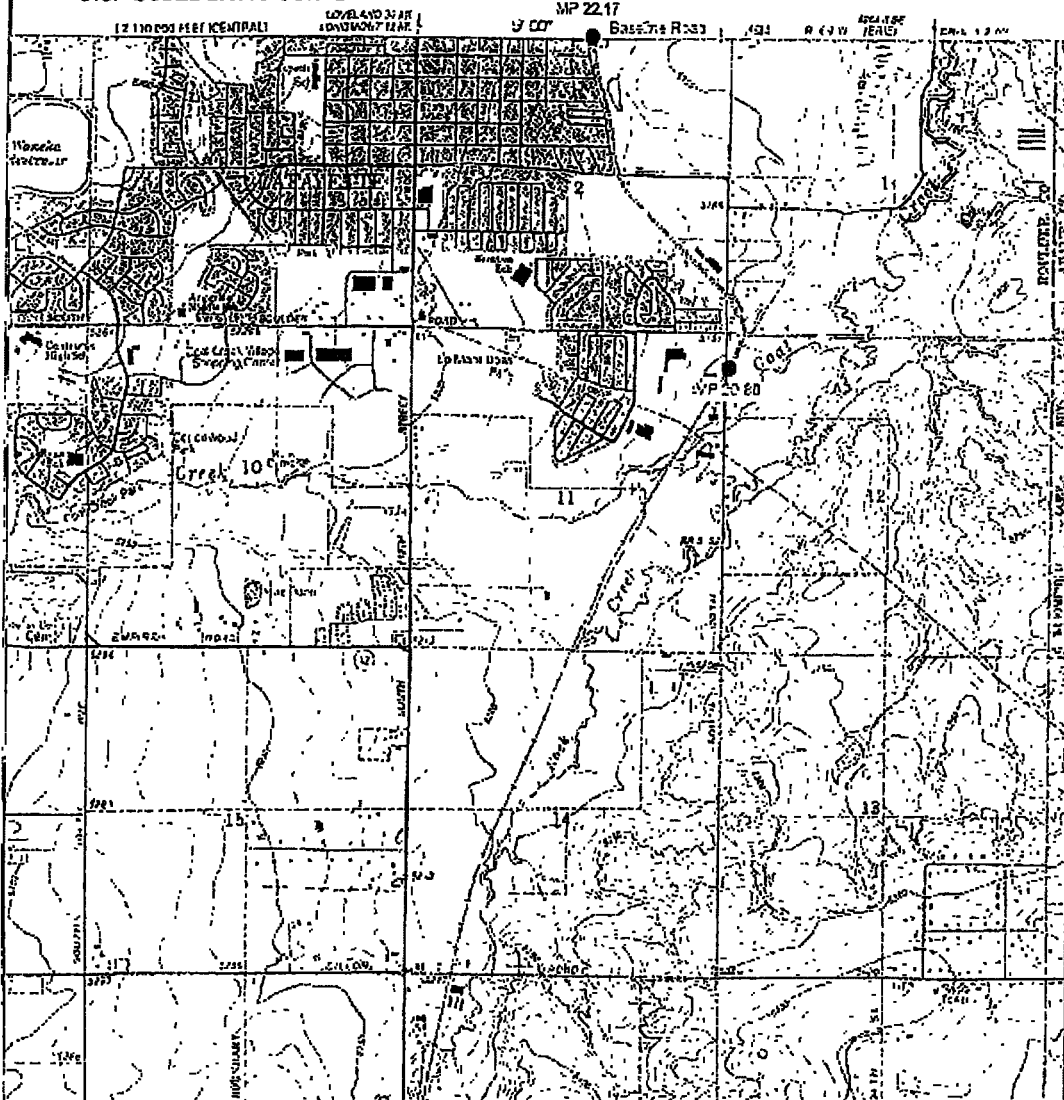


John A. Sims, CP
Paralegal

Enclosure as stated

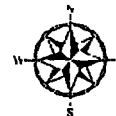
cc via email: Courtney Estes – BNSF – courtney.estes@bnsf.com
Karl Morell – Ball Janik LLP – kmorell@bjllp.com
Susan Odom – BNSF susan.odom@bnsf.com
Mark Norton – BNSF – mark.norton@bnsf.com

U.S. DEPARTMENT OF THE INTERIOR
U.S. GEOLOGICAL SURVEY



BNSF Line Segment 179
Mile post 20.80 to Mile post 22.17
Front Range Subdivision
Boulder County, Colorado

STB Docket No.
AB-6 (Sub-No. __X)



Base map – United States Geological Survey
Lafayette Quadrangle
7.5-minute series
39105-H1-TF-024

Map source date 1965 Revised 1994
DRG Creation Date: 05/12/2010
DMA 4963 INE Series V877



John A. Sims, CP
Paralegal
Law Department

BNSF Railway Company
2500 Lou Menk Drive – AOB-3
Fort Worth, Texas 76131-2828
tel 817-352-2376
fax 817-352-2397
Email john.sims@bnsf.com

June 6, 2011

US EPA, Region 8
1595 Wynkoop Street
Denver, CO 80202-1129

**Re: STB Docket No. AB-6 (Sub-No. 475X) BNSF Railway Company –
Abandonment Exemption – in Boulder County, Colorado**

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As part of the requisite environmental report, BNSF needs to know: 1) whether or not this action will be consistent with Federal, State or local water quality standards, and 2) whether or not Section 402 and/or National Pollutant Discharge Elimination System ("NPDES") permits are required for performance of the salvage activity described below. Please note: **BNSF anticipates the proposed abandonment should not disturb more than one (1) acre of land.**

For your reference I have enclosed a map of the subject railroad line. Following is information on BNSF's salvage process as it relates to this project that should also be of use:

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John A. Sims, CP
Paralegal

Enclosure as stated

cc via email: Courtney Estes – BNSF – courtney_estes@bnsf.com
Karl Morell – Ball Janik LLP – kmorell@bjllp.com
Susan Odom – BNSF susan.odom@bnsf.com
Mark Norton – BNSF – mark.norton@bnsf.com

H



John A. Sims, CP
Paralegal
Law Department

BNSF Railway Company
2500 Lou Menk Drive – AOB-3
Fort Worth, Texas 76131-2828
tel 817-352-2376
fax 817-352-2397
Email – john.sims@bnsf.com

June 6, 2011

Colorado Department of Natural Resources
Division of Water Resources
1313 Sherman St., Rm. 818
Denver, CO 80203

**Re: STB Docket No. AB-6 (Sub-No. 475X) – BNSF Railway Company -
Abandonment Exemption – in Boulder County, Colorado**

BNSF Railway Company ("BNSF") anticipates filing in a few weeks a Notice of Exemption seeking Surface Transportation Board ("STB") authority in the above-referenced docket to abandon 1.37 miles of rail line in Boulder County, Colorado, between Milepost 20.80 and Milepost 22.17, in Lafayette

As part of the environmental report, BNSF is required to contact your agency to determine if the proposed abandonment:

1. will affect land or water uses within a designated coastal zone;
2. is consistent with applicable Federal, State or local water quality standards (with a description of any inconsistencies identified); and
3. will require permits under Section 402 of the Clean Water Act (33 U.S.C. § 1342)

For your reference I have enclosed a map of the subject railroad line. Following is information on BNSF's salvage process as it relates to this project that should also be of use:

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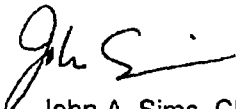
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John A. Sims, CP
Paralegal

Enclosure as stated

cc via email: Courtney Estes – BNSF – courtney.estes@bnsf.com
Karl Morell – Ball Janik LLP – kmorell@bjllp.com
Susan Odom – BNSF susan.odom@bnsf.com
Mark Norton – BNSF mark.norton@bnsf.com



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
DENVER REGULATORY OFFICE, 9307 S. Wadsworth Boulevard
LITTLETON, COLORADO 80128-6901

June 10, 2011

SEP 7 2011

Mr. John Sims
BNSF Railway Company
2500 Lou Menk Drive – AOB-3
Fort Worth, Texas 76131-2828

**RE: STB Docket No. AB-6 (Sub-No. 475X) BNSF Railway Company – Abandonment
Exemption – Boulder County, Colorado
Corps File No. NWO-2011-1118-DEN**

Dear Mr. Sims:

Reference is made to the above-mentioned project located in Sections 1, 2 and 12, T1S, R69W, Boulder County, Colorado.

This project has been reviewed in accordance with Section 404 of the Clean Water Act under which the U.S. Army Corps of Engineers regulates the discharge of dredged and fill material, and any excavation activity associated with a dredge and fill project in waters of the United States

Based on the information provided, a Department of the Army (DA) Permit will not be required for this project. Although a DA Permit will not be required for the project, this does not eliminate the requirement that other applicable federal, state, and local permits be obtained as needed.

Our office has no information regarding 100-year floodplains. You should notify the City of Lafayette, Boulder County or FEMA to satisfy any concerns regarding your work in 100-year floodplains.

If there are any questions call Mr. Terry McKee of my office at (303) 979-4120 and reference Corps File No. NWO-2011-1118-DEN.

Sincerely,

Timothy T. Carey
Chief, Denver Regulatory Office

tim